

Exhibit 40

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

ANDREW COLBORN,

Plaintiff, CIVIL ACTION NO. 19-CV-0484

-vs-

NETFLIX, INC., ET AL, ***CONFIDENTIAL***

Defendants.

DEPOSITION OF: BRENDA SCHULER

DATE: May 20, 2022

TIME: 8:39 a.m. to 4:57 p.m.

LOCATION: Godfrey & Kahn, S.C.
833 East Michigan Street
Suite 1800
Milwaukee, Wisconsin 53202

REPORTED BY: Janet D. Larsen, RPR

1 A. I do.

2 Q. And you believe Brendan Dassey is a guilty man?

3 A. A different capacity but, yes.

4 Q. And you believe that Mr. Colborn is an innocent
5 man and that he did not plant evidence to frame
6 them; correct?

7 A. Correct.

8 Q. And you think that Making a Murderer and Kathleen
9 Zellner and Strange and Buting and Mr. Ferak have
10 all defamed Mr. Colborn; correct?

11 A. Some more than others, yes.

12 MS. BARKER: Object to foundation.

13 Q. And you've said all these things pretty publicly,
14 including on Twitter; correct?

15 A. Yes, yes.

16 Q. And I believe you've testified that you're able to
17 create a fair and accurate and transparent
18 documentary despite your personal beliefs;
19 correct?

20 A. Yes, yes.

21 Q. And despite what I think we could call a pretty
22 clear bias, you believe Convicting a Murderer will
23 be fair and accurate and transparent?

24 A. I do, I do.

25 Q. And you would agree with me that a person's biases

1 or preconceived notions don't necessarily make a
2 documentary unfair; correct?

3 MS. BARKER: Object as to foundation.
4 Incomplete hypothetical.

5 A. Could you say that again?

6 MS. WALKER: Can you read it back?

7 A. I just want to think about it. I want to think
8 about that for a second, how you said that.

9 (Question read)

10 A. No. I, I --

11 MS. BARKER: Objection.

12 A. I agree.

13 Q. You agree?

14 A. I agree that that doesn't make it unfair because
15 they have a bias, no.

16 Q. Correct. And I think you'll agree with me that
17 there's nothing unethical or irresponsible about
18 making a documentary that has a point of view or a
19 protagonist; do you agree?

20 A. I agree.

21 MR. KURTZ: Same objection.

22 Q. Do you think there's anything unethical about a
23 documentary that tries to persuade viewers to come
24 to a certain conclusion?

25 A. It depends.

1 but it just takes me a minute to confirm that I
2 could skip.

3 A. Sure.

4 Q. Let me ask you if you're worried about a
5 defamation suit being filed against you when the
6 documentary comes out by Kathleen Zellner, by the
7 filmmakers of Making a Murderer, by Attorneys
8 Buting and Strang. Is that something you, that
9 keeps you up at night?

10 A. No.

11 Q. And why not?

12 A. Because I'm not doing anything to defame them.
13 I'm not saying anything about them that isn't
14 factual, that I can't support.

15 Q. And so I'm going to ask you a series of questions.

16 A. Sure.

17 Q. I think I know the answer to all of them, but I
18 just want to get it on the record.

19 A. Sure.

20 Q. So given what you just said, you would agree that
21 even though Convicting a Murderer may ultimately
22 take a side, that that's not grounds for a
23 lawsuit?

24 MR. KURTZ: Objection. Incomplete
25 hypothetical.

1 MS. BARKER: Object.

2 MR. KURTZ: Vague.

3 MS. BARKER: Objection. Calls for a
4 legal conclusion.

5 A. Okay.

6 Q. You can answer if you understand the question.

7 A. I'm so bad at remembering these --

8 MS. WALKER: Can you read it back.

9 A. -- when they object. Sorry.

10 (Question read)

11 A. Agree.

12 MS. BARKER: Same objection.

13 Q. Just because it's dramatic or suspenseful or has
14 cliffhangers or has music, that's not grounds for
15 a lawsuit?

16 A. Agreed.

17 MS. BARKER: Same objection.

18 Q. Just because it strives to not only inform, but to
19 entertain and engage, that's not grounds for a
20 lawsuit?

21 MS. BARKER: Same objection.

22 A. That's hard to answer because it depends on what
23 you're doing to entertain the viewer, if it's
24 accurate.

25 Q. I can rephrase.

1 STATE OF WISCONSIN)

2 MILWAUKEE COUNTY)

3 I, JANET D. LARSEN, a Notary Public in
4 and for the State of Wisconsin, do hereby certify that
5 the deposition of BRENDA SCHULER was taken before me
6 under and pursuant to the Federal Rules of Civil
7 Procedure on the 20th day of May, 2022.

8 That before said witness testified,
9 she was first duly sworn by me to testify the truth.

10 That I am not a relative or employee or
11 attorney or counsel of any of the parties, or a
12 relative or employee of such attorney or counsel, or
13 financially interested directly or indirectly in this
14 action.

15 That the foregoing pages are a true and
16 correct transcription of my original shorthand notes
17 taken at said time and place.

18

19 Dated this 24th day of May, 2022
20 at Milwaukee, Wisconsin.

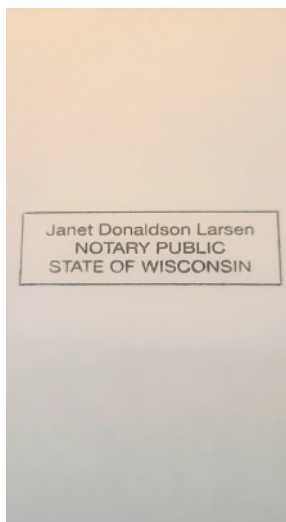
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Janet Donaldson Larsen

JANET DONALDSON LARSEN
REGISTERED PROFESSIONAL REPORTER
NOTARY PUBLIC, STATE OF WISCONSIN
MY COMMISSION EXPIRES 1-22-26

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